IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 374 OF 2006

IN

CIVIL APPLICATION NO. 5133 OF 2005

IN

FIRST APPEAL NO. 2115 OF 2005

SURAT GOODS TRANSPORT SERVICE .. APPELLANT

Versus

ORIENTAL INSURANCE CO. LTD. & ANR. RESPONDENTS

Ms. Sunita Tiwari for appellant

Ms. Veena Gawda for respondent

CORAM:-SMT. RANJANA DESAI &

D.B. BHOSALE, JJ.

DATED:-30/1/06

P.C.

. On 2/12/2005 this Court has issued rule on the Civil Application No. 5133 of 2005 and passed the following order:

". Pending further orders, there shall be ad-interim relief in terms of prayer

clause (a), subject to the condition that the Appellant deposits entire decretal amount before the trial court within a period of four weeks from today.

. We make it clear that if the Appellant fails to deposit the entire decretal amount within the stipulated time, as aforesaid, the ad-interim order shall stand vacated without any further reference to the court".

2. In this civil application it is prayed that the said order be modified and the applicant be permitted to furnish bank guarantee of a scheduled nationalised bank or security against the decretal amount in the trial court.

3. We have heard the learned counsel for the applicant.

4. In the circumstances of the case, we are unable to modify the order dated 2/12/05 to the extent of allowing the appellant/applicant to furnish bank guarantee for the entire decretal amount. However, we direct that the appellant shall deposit 50 per

cent of the entire decretal amount before the trial Court within a period of four weeks from today.

5. Needless to say that the entire decretal amount will also include interest. For the rest of the amount which also includes interest the appellant/applicant shall furnish bank guarantee of a nationalised bank to the satisfaction of the trial court and the bank guarantee shall be kept alive till disposal of the appeal.

6. With the above modification civil application is disposed of.

(SMT. RANJANA DESAI,J.)

(D. B. BHOSALE, J.)